

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-360-S - ORDER NO. 2010-125
FEBRUARY 9, 2010

IN RE: Happy Rabbit, LP on Behalf of Windridge)
Townhomes, Complainant, v. Alpine)
Utilities, Incorporated, Respondent)
ORDER DENYING
REQUEST FOR FURTHER
DISCOVERY
)

This matter comes before the Public Service Commission of South Carolina (“Commission”) via letter dated October 28, 2009, from counsel for Happy Rabbit, LP (“Happy Rabbit”) and Carolyn Cook (“Cook”), expressing a desire to “commence further discovery” on behalf of Cook. Thus arises another issue in a matter that has received the benefit of much time and focus by this Commission. As support for her discovery request, the October 28th letter and further correspondence dated November 2, 2009, take the position that the claims of Cook¹ have not been dismissed by this Commission. However, that position is in error, as demonstrated by this Commission’s Order No. 2009-496, as well as by Cook’s own statements in filings made in response to that Order.

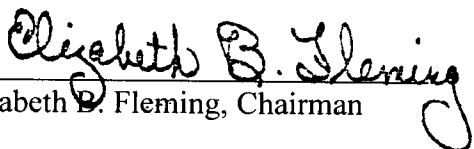
On page 2 of Order No. 2009-496, it plainly states: “The Happy Rabbit/Carolyn L. Cook matters have been dismissed without prejudice – not held in abeyance.” Indeed, the Order’s disposition of her claims was clear enough to Cook that the dismissal was

¹ As stated in correspondence from the Office of Regulatory Staff dated April 2, 2009, reporting on the status of its investigation of Cook’s allegations, “The facts giving rise to Mrs. Cook’s complaint, the parties involved, and the relief sought are part of the complaint currently pending before the Commission in Docket No. 2008-360-S.” As discussed below, the Commission treated her claims as part of this docket, and dismissed those claims (without prejudice) on the basis of judicial economy.

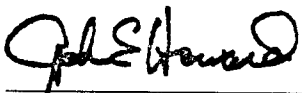
expressly recognized by the pleadings and correspondence she filed in response to the Commission's ruling. For instance, Cook and Happy Rabbit filed "Complainants' Petition for Clarification/Alternative Relief", dated April 22, 2009 regarding the Commission's ruling. In that Petition, Cook and Happy Rabbit expressly stated: "[The Commission] issued its oral decision on Wednesday, April 22, 2009, on both Complaints, ruling *inter alia*, that both Complaints should be dismissed without prejudice." Petition at 1 (emphasis added). They repeated their understanding of the dismissal in correspondence dated April 28, 2009: "The Complaints were simply dismissed without prejudice, while the Circuit Court reviews the question of § 27-33-50 . . .", pp. 1-2 (emphasis added). Cook's present request notwithstanding, no objection was raised regarding the language in Order No. 2009-496 dismissing the allegations of Cook. The claims were dismissed without prejudice on the basis of judicial economy, appealed by Happy Rabbit, then the appeal dismissed. An Order of Dismissal and Remittitur has been filed with this Commission from the South Carolina Court of Appeals. There simply is no pending case; therefore, there can be no discovery.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:



John E. Howard, Vice Chairman
(SEAL)